

# **TOWN OF DAVIE**

## **TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101

**PREPARED BY:** Christopher M. Gratz, Planner II

**SUBJECT:** Quasi Judicial Hearing: Ordinance 1st Reading, VA 12-1-03 Oak Scholar Academy Charter School, 3655 Shotgun Road (SW 154 Avenue)/Generally located on the west side of Shotgun Road, south of SW 36 Street.

**AFFECTED DISTRICT:** District 4

**TITLE OF AGENDA ITEM:** AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION PETITION VA 12-1-03, VACATING A PORTION OF THE 15 FOOT RIGHT-OF-WAY LYING SOUTH OF TRACT 40 AS SHOWN ON “FLORIDA FRUIT LANDS COMPANY’S SUBDIVISION NO.1”, SECTION 21, TOWNSHIP 50 SOUTH, RANGE 40 EAST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**REPORT IN BRIEF:** The request is to vacate a 15-foot road right-of-way easement adjacent to the south property line on the 10.63 acres subject site.

This 15-foot road right-of-way easement was dedicated by the original Plat, “Florida Fruit Lands Company’s Subdivision Plat No. 1, recorded in Plat Book 2, Page 17 of Dade County Records. The request is to vacate this easement so that the overall 10.63 net acre site can accommodate a proposed 66,565 square foot charter school.

The proposed vacation will not have an adverse impact on the surrounding properties or neighborhood. The 15-foot road right-of-way easement is along the south property line, running through the archeological site, from the east property line to the west property line. It does not provide any street connections from east to west as I-75 is west of the property. The vacant parcel to the south has access on Shotgun Road and will not be affected by this request. The proposed vacation will allow a better site design as the subject site is long and narrow (330’ x 1,305’) and contains an archeological site. A 10-foot perimeter landscape buffer is proposed in this location.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** At the May 11, 2005, Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded by Mr. Stevens, to vacate the 15-foot road right-of-way. (Motion carried 3-2 with Chair Bender and Vice-Chair Turin being opposed since they are opposed to the rezoning of the site.)

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

**Attachment(s):** Ordinance, Planning Report

ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, APPROVING VACATION PETITION VA 12-1-03, VACATING A PORTION OF THE 15 FOOT RIGHT-OF-WAY LYING SOUTH OF TRACT 40 AS SHOWN ON “FLORIDA FRUIT LANDS COMPANY’S SUBDIVISION NO.1”, SECTION 21, TOWNSHIP 50 SOUTH, RANGE 40 EAST; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, a 15’ right-of-way within Section 21, Township 50 South, Range 40 East, was dedicated by the Everglades Sugar and Land Company Subdivision, as recorded in Plat Book 2, Page 17 of the Public Records of Dade County, said lands lying in Broward County, Florida; and

WHEREAS, vacating this right-of-way will not adversely affect access to adjoining properties and will not be in conflict with the public interest; and

WHEREAS, the Town Council of the Town of Davie authorized the publication of a notice of a public hearing as required by law, and a public hearing was held on the date of the adoption of this ordinance; and

WHEREAS, on the date of adoption of this Ordinance, the Town Council of the Town of Davie did agree to the vacation request.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE FLORIDA:

SECTION 1. That the right-of-way herein after described be vacated by the Town of Davie:

- a. The subject property is described in Exhibit “A”, which is attached hereto and made a part hereof;

SECTION 2. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 3. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 4. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.

PASSED ON SECOND READING THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.

\_\_\_\_\_  
MAYOR/COUNCILMEMBER

ATTEST:

\_\_\_\_\_  
TOWN CLERK

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2005.

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**TOWN OF DAVIE**  
**Development Services Department**  
**Planning & Zoning Division**  
*Staff Report and Recommendation*

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**Applicant Information**

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**Owner:**

**Name:** Oak Scholar of Broward, LLC  
Hugo F. Hormazabal

**Address:** 6035 SW 88 Court

**City:** Miami, FL 33173

**Phone:** (305) 412-7874

**Petitioner:**

**Name:** C. William Laystrom Jr.  
Doumar, Allsworth, et al.

**Address:** 1177 SE 3 Avenue

**City:** Fort Lauderdale, FL 33316

**Phone:** (954) 762-3400

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**Background Information**

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**Application History:** No deferrals have been requested.

**Planning and Zoning**

**Board Recommendation:** Approval was recommended at the May 11, 2005, meeting.

**Date of Notification:** May 4, 2005

**Number of Notifications:** 23

**Application Request:** To vacate a 15-foot road right-of-way easement on the subject site

**Address/Location:** 3655 Shotgun Road (SW 154 Avenue)/generally located on the west side of Shotgun Road, south of SW 36 Street.

**Future Land Use**

**Plan Map Designation:** Residential (1 DU/AC)

**Existing Zoning:** AG, Agricultural District

**Proposed Zoning:** CF, Community Facilities District

**Existing Use:** Vacant

**Proposed Use:** A charter school of 66,565 square feet with a maximum capacity of 900 students

**Net Parcel Size:** 10.63 acres

**Surrounding Land**

**Surrounding Uses:**

**North:** Vacant & SW 36 Street  
**South:** Vacant Land  
**East:** Shotgun Road (SW 154 Avenue)  
**West:** I-75

**Use Plan Designations:**

Residential (1 DU/ AC)  
Residential (1 DU/ AC)  
Residential (1 DU/ AC)  
Transportation

**Surrounding Zoning:**

**North:** AG, Agricultural District  
**South:** CF, Community Facilities District  
**East:** E, Estate District  
**West:** T, Transportation

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## **Zoning History**

**Related Zoning History:**

On October 16, 2002, the Town Council approved Ordinance 2002-35, amending the Land Development Code to create Article IX of Chapter 12, entitled "Rural Lifestyle Regulations" and to create Scenic Corridors Overlay District. Shotgun Road was designated as a scenic corridor.

**Plat:**

The subject site was a portion of the plat, Florida Fruit Lands Company's Subdivision Plat No. 1, as recorded in Plat Book 2, Page 17 of Miami Dade County Records.

On February 18, 2004, the Town Council approved the replat, Oak Scholar-Davie Plat, subject to approval of the rezoning (ZB 2-4-03) from AG, Agricultural District, to CF, Community Facilities District.

**Previous Requests on Same Property:**

The applicant has submitted the following requests simultaneously with this request:

A site plan application (SP 2-4-03) for construction of a 63,561-square foot school facility to accommodate a maximum of 900 students from kindergarten through 8<sup>th</sup> grade;

A rezoning request (ZB 2-4-03) to rezone the subject property from AG, Agricultural District, to CF, Community Facilities District;

A developers agreement (DA 12-2-03) between the developer, Broward County, and Town of Davie for the management plan for the archeological site within the plat limit;

A developers agreement (DA 4-2-04) between the developer, Broward County, and Town of Davie for the Regional Road Concurrency Agreement.

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## Application Details

The request is to vacate a 15-foot road right-of-way easement adjacent to the south property line on the 10.63 acres subject site.

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## Applicable Codes and Ordinances

Section 12-310 of the Land Development Code, review for vacations or abandonment of right-of-way.

Section 12-289 (A) of Rural Lifestyle Regulation, Street, Access, and Circulation.

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## Comprehensive Plan Considerations

**Planning Area:** The subject property is within Planning Area 2. Planning Area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 113.

**Applicable Goals, Objectives & Policies:** *Future Land Use Plan, Objective 5: Consistency of Development with Comprehensive Plan, Policy 15-4:* Land development regulation shall provide for adequate, convenient, and safe on-site circulation and off-street parking facilities.

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## Significant Development Review Agency Comments

There were no significant development review comments for this application.

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## Staff Analysis

This 15-foot road right-of-way easement was dedicated by the original Plat, "Florida Fruit Lands Company's Subdivision Plat No. 1, recorded in Plat Book 2, Page 17 of Dade County Records. The request is to vacate this easement so that the overall 10.63 net acre site can accommodate a proposed 66,565 square foot charter school.

The proposed vacation will not have an adverse impact on the surrounding properties or neighborhood. The 15-foot road right-of-way easement is along the south property line, running through the archeological site, from the east property line to the west property line. It does not provide any street connections from east to west as I-75 is west of the property. The vacant parcel to the south has access on Shotgun Road and will not be affected by this request. The proposed vacation will allow a better site design as the subject site is long and narrow (330' x 1,305') and contains an archeological site. A 10-foot perimeter landscape buffer is proposed in this location.

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## Findings of Fact

### Vacations or abandonment of right-of-way:

#### Section 12-310 (A)(1):

The following findings of fact apply to the vacation requested:

- (a) It will not adversely affect access to neighboring properties.

*The 15-foot road right-of-way easement is along the south property line adjacent to the vacant parcel owned by Broward County. This vacant parcel to the south has an access on Shotgun Road. No other property in the neighborhood will be affected by this request. Therefore, it will not adversely affect access to neighboring properties.*

- (b) It will not be in conflict with the public interest.

*The subject property is adjacent to I-75 to the west and Shotgun Road to the east. The 15-foot road right-of-way easement is along the south property line running from the east property line to the west property line. It does not provide any street connections from east to west as I-75 is west of the property. The vacant parcel to the south has an access on Shotgun Road and will not be affected by this vacation. As such, vacation of this easement will not be in conflict with the public interest.*

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## Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

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## Planning and Zoning Board Recommendation

At the May 11, 2005, Planning and Zoning Board meeting, Mr. McLaughlin made a motion, seconded by Mr. Stevens, to vacate the 15-foot road right-of-way. (Motion carried 3-2 with Chair Bender and Vice-Chair Turin being opposed since they are opposed to the rezoning of the site.)

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## Town Council Recommendation

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## Exhibits

- 1) Justification
- 2) Survey
- 3) Future Land Use Plan Map
- 4) Zoning and Aerial Map

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_



**KEITH and SCHNARS, P.A.**  
ENGINEERS - PLANNERS - SURVEYORS

December 9, 2003

Annie Feng  
Planning and Zoning Division  
Town of Davie  
6591 Orange Drive.  
Davie, FL 33314-3399

**RE: Oak Scholar Academy Charter School-Roadway Vacation**  
**Keith and Schnars, P.A /009-MP-03**

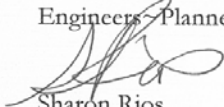
Dear Mrs. Feng:

We are requesting that you review the above plat documents. The survey indicates a 15-foot right-of-way along the south property line therefore a vacation of a right-of-way is required to include this parcel into the project prior to the Town of Davie approving the site plan.

Thank you in advance for your prompt response to this request. Should you have any questions, or require additional clarification, please feel free to contact this office at (954) 776-1616 ext. 466.

Sincerely,

KEITH and SCHNARS, P.A.  
Engineers~Planners~Surveyors

  
Sharon Rios,  
Associate Planner

SR/

RECEIVED

DEC 09 2003

TOWN OF DAVIE  
PLANNING & ZONING DEPT

6500 North Andrews Avenue • Ft. Lauderdale, Florida 33309-2132  
(954) 776-1616 • (800) 488-1255 • Fax (954) 771-7690

1. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, OR OTHER INSTRUMENTS OF RECORD.
3. THE BEARINGS SHOWN ON THIS SKETCH WERE BASED ON THE NORTH AMERICAN DATUM OF 1927. SHOWN ON THE "STONER/KEITH RESURVEY II" OF ALL OF TOWNSHIP 50 SOUTH, RANGE 40 EAST, BROWARD COUNTY, FLORIDA, AS RECORDED IN MISCELLANEOUS PLAT BOOK 4, PAGE 21 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, AND AS TRANSFORMED TO THE NORTH AMERICAN DATUM OF 1983, WITH THE 1990 ADJUSTMENT. A REFERENCE BEARING OF NORTH 00°10'35" WEST, ON THE EAST LINE OF THE SOUTHWEST 1/4 OF SECTION 21.
4. THE "LAND DESCRIPTION" HEREON WAS PREPARED BY THE SURVEYOR.
5. THIS SKETCH IS NOT A BOUNDARY SURVEY AS SUCH.

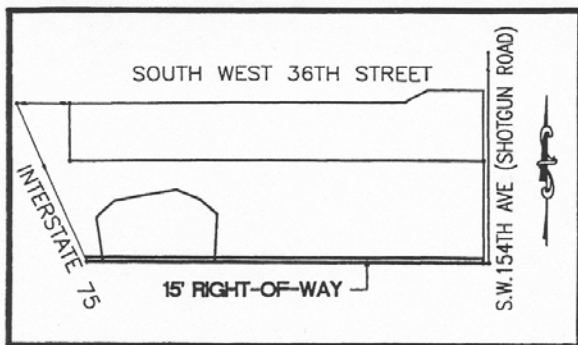
A PORTION OF THE 15 RIGHT- OF- WAY LYING SOUTH OF TRACT 40 AS SHOWN ON "FLORIDA FRUIT LANDS COMPANY'S SUBDIVISION NO.1", SECTION 21, TOWNSHIP 50 SOUTH, RANGE 40 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED PLAT BOOK 2, PAGE 17 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, AND LYING NORTH OF THE SOUTH LINE OF SAID SECTION 21 AND LYING WEST OF THE SOUTHERLY PROJECTION OF THE EAST LINE OF SAID TRACT 40 AND LYING EAST OF INTERSTATE 75 AS SHOWN ON FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY MAP, SECTION #86075-2417, SHEET 8 OF 11, LATEST REVISION DATE 09/17/96.

CERTIFICATE:

I HEREBY CERTIFY THAT THE ATTACHED SKETCH OF DISCRIPTION OF THE HEREON DESCRIBED PROPERTY IS DEPICTED TO THE BEST OF MY KNOWLEDGE, BELIEF, AND INFORMATION AS DELINEATED UNDER MY DIRECTION ON DECEMBER 5, 2003. I FURTHER CERTIFY THAT THIS SKETCH OF DISCRIPTION MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFFESIONAL SURVEYORS AND MAPPERS IN CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES, SUBJECT TO THE QUALIFICATIONS NOTED HEREON.

KEITH AND SCHANRS, P.A.  
ENGINEERS-PLANNERS-SURVEYORS

RY A.M. I AYPWTOX, P.S.M.

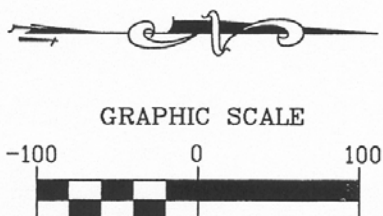


LOCATION SKETCH (NOT TO SCALE)

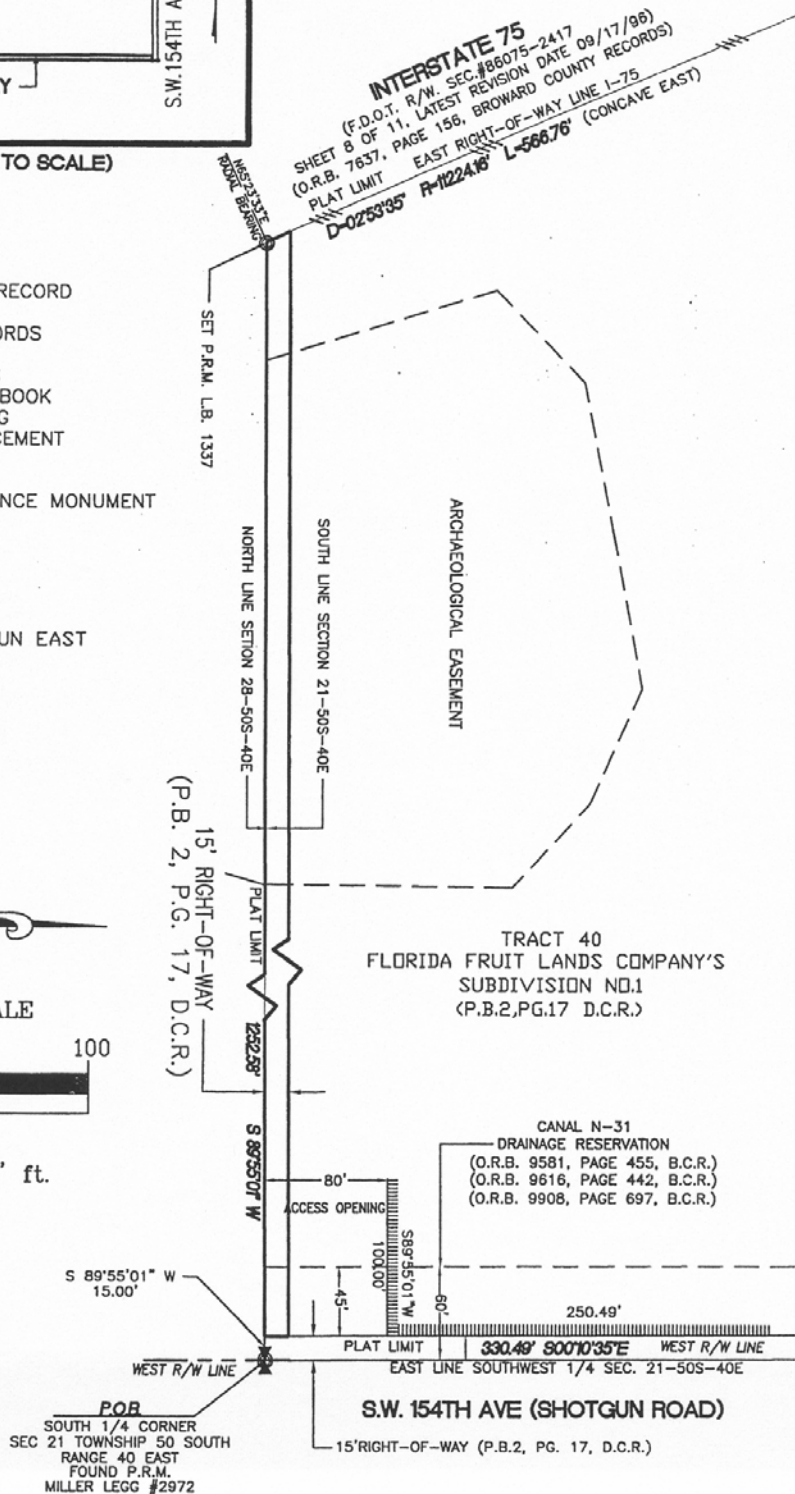
LEGEND:

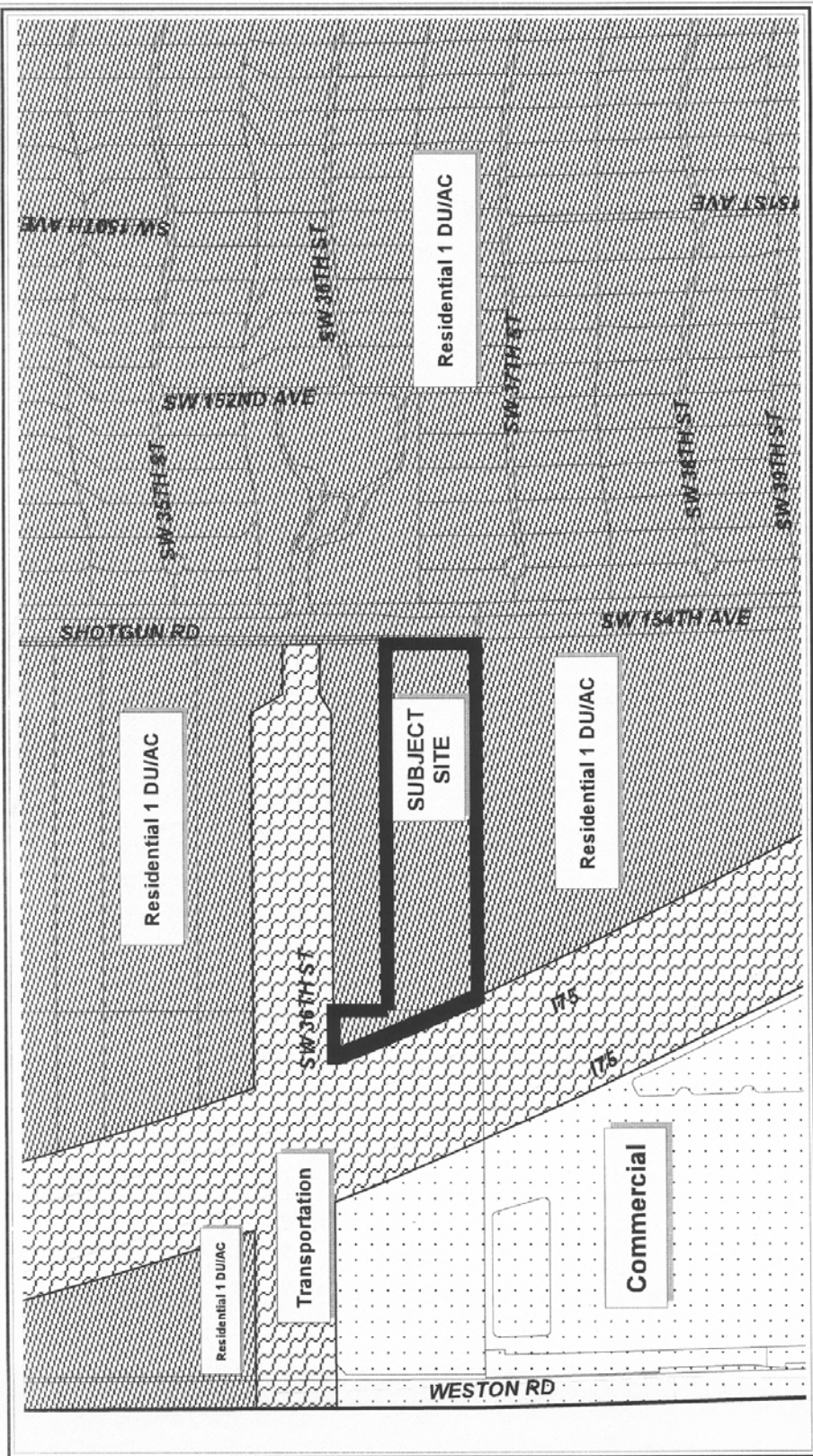
B.C.R. BROWARD COUNTY RECORD  
 D DELTA  
 D.C.R. DADE COUNTY RECORDS  
 L LENGTH  
 L.B. LICENSED BUSINESS  
 O.R.B. OFFICIAL RECORDS BOOK  
 P.O.B. POINT OF BEGINNING  
 P.O.C. POINT OF COMMENCEMENT  
 P.B. PLAT BOOK  
 PG. PAGE  
 P.R.M. PERMANENT REFERENCE MONUMENT  
 R RADIUS

UNRECORDED PLAT OF SHOTGUN EAST  
 (016-MP-00)  
 PARCEL 'B'  
 (20,644 SQUARE FEET)  
 (0.474 ACRES)  
 ARCHAEOLOGICAL SITE  
 PORTION OF FLORIDA  
 FILE NUMBER 8BD52



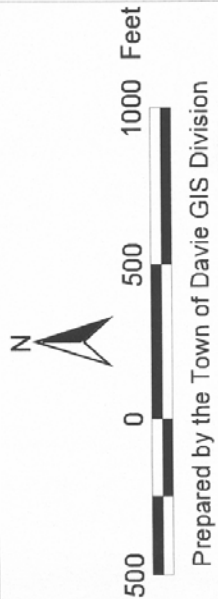
( IN FEET )  
 1 inch = 100' ft.

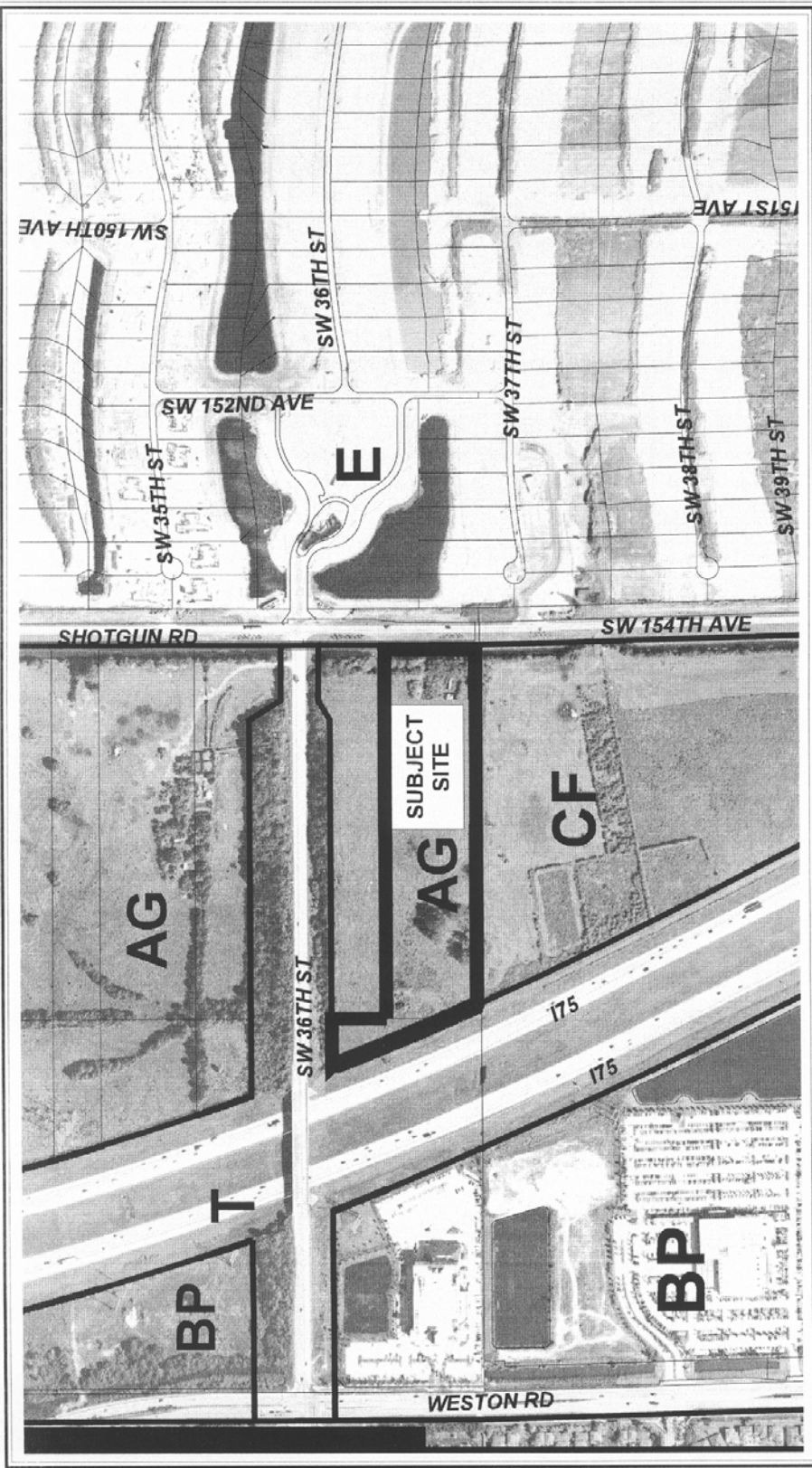




# VACATION VA 12-1-03 Future Land Use Map

Prepared By: ID  
Date Prepared: 10/26/04





# VACATION VA 12-1-03 Zoning and Aerial Map

Prepared By: ID  
Date Prepared: 10/26/04



Date Flown:  
12/31/02

500 0 500 1000 Feet

Prepared by the Town of Davie GIS Division